

1 WILLIAM TAMAYO, Regional Attorney, #084965 (CA)
2 JONATHAN PECK, Supervisory Trial Attorney, #12303 (VA)
3 MARCIA L. MITCHELL, Senior Trial Attorney, #18122 (WA)
4 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
5 San Francisco District Office
6 350 The Embarcadero, Suite 500
7 San Francisco, CA 94105-1260
8 Tel: (415) 625-5651
9 Fax: (415) 625-5657
10 Marcia.Mitchell@eeoc.gov
11 ATTORNEYS FOR PLAINTIFF EEOC

12
13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE
15
16
17
18

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

JAMBA JUICE COMPANY,

Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

19
20 NATURE OF THE ACTION
21
22

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Ali Tomlin (“Ms. Tomlin”) and similarly situated female employees who were adversely affected by such practices. The Equal Employment Opportunity Commission alleges that Jamba Juice Company (“Jamba Juice”) subjected Ms. Tomlin and similarly situated

COMPLAINT- Page 1 of 5

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105
Telephone: (415) 625-5651
Facsimile: (415) 625-5657

1 female employees to sexual harassment, and constructively discharged Ms. Tomlin and similarly
2 situated female employees because of the sexual harassment. Plaintiff seeks monetary and
3 injunctive relief for Ms. Tomlin and a class of similarly situated female employees, including
4 pecuniary and non-pecuniary compensatory damages and punitive damages.

5 JURISDICTION AND VENUE

6 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337,
7 1343 and 1345. This action is authorized and instituted pursuant to sections 706(f)(1) and (3),
8 and 707 of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C.
9 sections 2000e-5(f)(1) and (3), 2000e-6 and Section 102 of the Civil Rights Act of 1991, 42
10 U.S.C. §1981a.

12 2. The employment practices alleged to be unlawful were committed within the
13 jurisdiction of the United States District Court for the Western District of Washington.

14 PARTIES

15 3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is
16 the agency of the United States of America charged with the administration, interpretation and
17 enforcement of Title VII, and is expressly authorized to bring this action by Sections 706(f)(1)
18 and 707 of Title VII, 42 U.S.C. §§2000e-5(f)(1) and 2000e-6.

20 4. At all relevant times, defendant Jamba Juice Company ("Jamba Juice") has been a
21 corporation continuously doing business in the State of Washington and has continuously had at
22 least 15 employees.

24 5. At all relevant times, defendant Jamba Juice has continuously been an employer
25 engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of
Title VII, 42 U.S.C. §§2000e-(b), (g) and (h).

COMPLAINT- Page 2 of 5

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105
Telephone: (415) 625-5651
Facsimile: (415) 625-5657

STATEMENT OF CLAIMS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
6. More than thirty days prior to the institution of this lawsuit, Ms. Tomlin filed a charge with the Commission alleging violations of Title VII by defendant Jamba Juice. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. From at least June 4, 2004, defendant Jamba Juice engaged in unlawful employment practices at its Puyallup, Washington store and elsewhere in violation of § 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Defendant engaged in these unlawful practices through the following actions by: (1) subjecting Ms. Tomlin and similarly situated female employees to ongoing sexual harassment; (2) constructively discharging Ms. Tomlin because of the sexual harassment in August 2006; and (3) constructively discharging a class of similarly situated female employees because of the sexual harassment.

8. From at least June 4, 2004, defendant Jamba Juice engaged in unlawful employment practices at its Puyallup, Washington store and elsewhere in violation of § 707(a) of Title VII, 42 U.S.C. § 2000e-2(a). Defendant engaged in these unlawful practices through the following actions by: (1) subjecting Ms. Tomlin and similarly situated female employees to a pattern or practice of sexual harassment; and (2) constructively discharging Ms. Tomlin and others similarly situated because of the sexual harassment.

9. The effect of the practices complained of in paragraphs 7 and 8, above has been to deprive Ms. Tomlin and similarly situated female employees of equal employment opportunities and otherwise adversely affect their status as employees of Jamba Juice because of their sex.

10. The unlawful employment practices complained of in paragraphs 7 and 8 above were intentional.

11. The unlawful employment practices complained of in paragraphs 7 and 8 above were done with malice or with reckless indifference to the federally protected rights of Ms. Tomlin and similarly situated female employees.

PRAAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining defendant, its officers, successors, agents, assigns, and all persons in active concert or participation with it, from engaging in any employment practices which discriminate on the basis of sex against any individual.

B. Order defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for all employees, and which eradicate the effects of its past and present unlawful employment practices.

C. Order defendant to make whole Ms. Tomlin and similarly situated female employees by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practice.

D. Order defendant to make whole Ms. Tomlin and similarly situated female employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8 above, including past and future out-of-pocket expenses, in amounts to be determined at trial.

E. Order defendant to make whole Ms. Tomlin and similarly situated female employees by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 and 8 above, including without limitation emotional pain, suffering, and loss of enjoyment of life, in amounts to be determined at trial.

1 F. Order defendant to pay Ms. Tomlin and similarly situated female employees
2 punitive damages for its malicious and reckless conduct described in paragraphs 7 and 8 above,
3 in amounts to be determined at trial.

4 G. Grant such further relief as the Court deems necessary and proper in the public
5 interest.

6 H. Award the Commission its costs of this action.

7 **JURY TRIAL DEMAND**

8 The Commission requests a jury trial on all questions of fact raised by its complaint.

9
10 DATED this 29th day of April, 2008.

11 WILLIAM TAMAYO
12 Regional Attorney

RONALD S. COOPER
General Counsel

13 JONATHAN PECK
14 Supervisory Trial Attorney

JAMES L. LEE
Deputy General Counsel

15 MARCIA L. MITCHELL
16 Senior Trial Attorney

17 BY: /s/
18 EQUAL EMPLOYMENT OPPORTUNITY
19 COMMISSION
20 San Francisco District Office
21 350 The Embarcadero, Suite 500
San Francisco, CA 94105
Telephone (415) 625-5651
Facsimile (415) 625-5657

Office of the General Counsel
1801 "L" Street NW
Washington, D.C. 20507

22 Attorneys for Plaintiff
23
24
25

COMPLAINT- Page 5 of 5

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105
Telephone: (415) 625-5651
Facsimile: (415) 625-5657